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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/012,466
Filing Date: December 12, 2001
Appellant(s): RICHARD ET AL.

William T. Ellis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 19, 2006 appealing from the Office
action mailed October 27, 2005

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,778,395	WHITING	7-1998
5,485,606	MIDGDEY	1-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 18-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiting et al. (U. S. Patent no. 5,778,395) of record in view of Midgdey et al. (US 5,485,606).

Regarding claims 1, 12-13 and 23, Whiting discloses a process for indexing files residing on a computer as part of backup operation, comprising the steps of:

- executing one or more periodic backup operations on the files, said backup operation including the step of scanning the files (see col. 3, line 7-48 and col. 14, line 45-49, Whiting);
- using said scanning operation to indexes for subsequent use in obtaining direct access to said files (see Fig.3-5; col.4, line 25-32, col. 5, line 45-46 and col. 14, line 48-51 and col.12, lines 38-63, Whiting).

Whiting, however, does not disclose the word data indexes provides an access to the files based on the word data content of the files. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary

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skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 2, Whiting/Midgdey combination further discloses the restoring of many files from the backup (see 4. line 46-50 and col. 5, line 41-46, Whiting) and the files including system files, program files and other files. Therefore, these files must contain both text-processing files and compound files.

Regarding claim 3, Whiting/Midgdey combination further discloses a centralized environment where a server (100, Fig. 1, Whiting) is associated with a database (101, Fig. 1, Whiting), said database adapted to store backup files and wherein said server substantially simultaneously carries out the backup and the indexing of the files (see col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42, Whiting).

Regarding claim 4, Whiting/Midgdey combination further discloses the step of generating a centralized table of indexes loaded on said server (col.3, lines 49-53 and col.4, line 59 to col.5, line 2, Whiting).

Regarding claim 5, Whiting/Midgdey combination further discloses that the access rights are defined for each file including at least one indexing right that is used for controlling the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 6, Whiting/Midgdey combination further discloses a first indexing attribute which authorizes the indexing of a given file within the centralized index; and a second

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indexing attribute defining selective access to that file (Fig.22 and corresponding text, Midgdey. The “index” and “new index” corresponds to first and second index with value attribute).

Regarding claim 7, Whiting/Midgdey combination further discloses the backup of files residing on a first machine, said server transmits to the first machine a local table of indexes representative of the different documents stored on that first machine (see col. 14, line 49-54, Whiting).

Regarding claim 8, Whiting/Midgdey combination further discloses that the transfer of the files which are to be backed up uses the Hyper Text Transfer (H.T.T.P.), RCP, FTP or the like protocols (see col. 13, line 31-38, Whiting).

Regarding claims 9-10, Whiting/Midgdey combination further discloses that the files correspond to system and/or user files and the indexing is performed in relation to the user files (see Fig. 3 and corresponding text, Whiting).

Regarding claim 11, Whiting/Midgdey combination further discloses

- initiating a search request for a given file, said request containing a set of key words or indexes (see col. 5, line 3-34 and col.13, line 11-36, Whiting);
- processing said search request by reference to a first local table of indexes stored on one of said plurality of computers in order to locate a first set of relevant files extracted from said one computer (col.17, line 5 to col. 18, line 35, Whiting);
- processing, upon request from the user, an additional search within said centralized index loaded into said server for the purpose of obtaining any additional results corresponding to files stored on the backup database (see col. 8, line 8-20, Whiting).

- displaying the result of said additional search and, for each or any file having a selective access attribute, automatically generating an electronic mail to be sent to a corresponding originator of said file for the purpose of requesting access to said file (see col. 35, line 44-63, Whiting).

Whiting, however, does not disclose the requesting access to the. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 14, Whiting discloses a knowledge-base system for indexing files residing on a computing system as part of a backup operation comprising:

- means for regularly backing up files stored on computers connected to or constituting a network (see col. 3, line 7-48 and col. 7, line 8-31, Whiting);
- means for substantially simultaneously indexing the files during the backup procedure for the purpose of creating and updating a database of backup files and documents as well as a centralized index of backed up documents (see col.4, line 59 to col.5, line 19; col. 14, line 26-65; Fig. 3 and corresponding text, Whiting).

Whiting, however, does not disclose the accessing to the backup files based on the word data content of the backed-up documents. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 15, Whiting discloses a backup process for a stand-alone computer comprising:

- opening each file which is to be backed up;
- while opening said file, compiling a set of indexes characterizing said files and which will be incorporated into a table of indexes (see col. 14, line 38-43, Whiting);
- closing said file upon completion of said backup and said indexing operation (see col. 14, line 26-65; Fig. 3 and corresponding text, Whiting).

Whiting, however, does not disclose a set of word data indexes characterizing the files. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have

been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claims 18, 21 and 31, Whiting discloses a process for indexing files residing on a plurality of computers as part of a backup operation attached to, or constituting a network for the purpose of generating a centralized table of indexes for use in obtaining direct access to said files, the table being stored on a server associated with a database adapted to store backup files, comprising the steps of:

- executing repeated backup operations on the files, said backup operations including the step of scanning the files (see col. 3, line 33-48 and col. 14, line 45-49, Whiting);
- using the scanning operation to derive a set of itemized indexes, wherein the server substantially simultaneously carries out the backup and the indexing of the files (see col. 4, line 25-30, col. 5, line 45-46 and col. 14, line 45-49, Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files based on the word data content of the files. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the

claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claim 19, Whiting/Midgdey combination further discloses that the access rights are defined for each file including at least one indexing right that is used for controlling the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claims 20 and 22, Whiting/Midgdey combination further discloses a first indexing attribute which authorizes the indexing of a given file within the centralized index (Fig.22 and corresponding text, Midgdey. The “index” and “new index” corresponds to first and second index with value attribute).

Regarding claim 24, Whiting further discloses a centralized environment where a server (100, Fig. 1, Whiting) is associated with a database (101, Fig. 1, Whiting), said database adapted to store backup files and wherein said server substantially simultaneously carries out the backup and the indexing of the files (see col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42, Whiting).

Regarding claim 25, Whiting further discloses the step of generating a centralized table of indexes stored on said server (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 26, Whiting further discloses the control of access rights that are defined for each file including at least one indexing right (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 27, Whiting further discloses the at least one indexing right includes: a first indexing attribute which authorizes the indexing of a given file within the centralized index; and a second indexing attribute defining selective access to that file (col.3, lines 49-53 and col.4, line59 to col.5, line 31, Whiting).

Regarding claim 28, Whiting further discloses that the program code elements are arranged to transmit to a computer a local table of indexes representative of the different files stored on that computer after completion of the backup of files residing on that computer (see col. 14, line 49-54, Whiting).

Regarding claims 29 and 37, Whiting discloses a server associated with a database adapted to store backup files and comprising program code elements for indexing files residing on a plurality of computers as part of a backup operation attached to, or constituting a network for the purpose of generating a centralized table of indexes for use in obtaining direct access to said files, said program code elements comprising:

- program code element to execute repeated backup operations on the files, said backup operations including the step of scanning the files (see col. 3, line 33-48 and col. 14, line 45-49, Whiting);
- program code element that uses said scanning operation to derive a set of itemized indexes, wherein the server substantially simultaneously carries out the backup and the indexing of the files (see col. 4, line 25-30, col. 5, line 45-46 and col. 14, line 45-49, Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files based on the word data content of the files. Midgdey, on the other hand, discloses the

system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Regarding claims 30 and 38, Whiting/Midgdey combination further discloses the at least one indexing right includes: a first indexing attribute which authorizes the indexing of a given file within the centralized index; and a second indexing attribute defining selective access to that file (Fig.22 and corresponding text and col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Midgdey. The “index” and “new index” corresponds to first and second index with value attribute).

Regarding claim 32, Whiting/Midgdey combination further discloses a centralized environment where a server (100, Fig. 1, Whiting) is associated with a database (101, Fig. 1, Whiting), said database adapted to store backup files and wherein said server substantially simultaneously carries out the backup and the indexing of the files (see col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42, Whiting).

Regarding claim 33, Whiting/Midgdey combination further discloses the step of generating a centralized table of indexes stored on said server (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 34, Whiting/Midgdey combination further discloses that the access rights are defined for each file including at least one indexing right that is used for controlling the indexing process of the files within the centralized table of indexes (col.3, line 49-53; col.4, lines 25-27 and line 59 to col.5; col.7, lines 24-31, line 2, Whiting).

Regarding claim 35, Whiting/Midgdey combination further discloses a first indexing attribute which authorizes the indexing of a given file within the centralized index; and a second indexing attribute defining selective access to that file (Fig.22 and corresponding text, Midgdey. The “index” and “new index” corresponds to first and second index with value attribute).

Regarding claim 36, Whiting/Midgdey combination further discloses that the program code elements are arranged to transmit to a computer a local table of indexes representative of the different files stored on that computer after completion of the backup of files residing on that computer (see col. 14, line 49-54, Whiting).

Regarding claim 39, Whiting discloses a program product for backing up files within a network of computers, comprising:

(a) computer program code stored on a computer readable medium adapted, when executed on a computer, (i) to execute one or more repeated backup operations on files stored on a computer, said backup operation including the step of scanning the files (see col. 3, line 33-48 and col. 14, line 45-49, Whiting); and (ii) to substantially simultaneously derive using said scanning operation a set of word data indexes (see col. 4, line 25-30, col. 5, line 45-46 and col. 14, line 45-49, Whiting); and

(b) computer program code stored on a computer readable medium adapted, when executed on a computer, to search for a file stored on a plurality of computers connected to, or

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constituting, a network within such a set of itemized indexes (see col. 5, line 3-34 and col.13, line 11-36, Whiting), by (i) initiating a search request for a given file, said request containing a set of key words or indexes, (ii) processing said search request by reference to a first local table of indexes stored on one of said plurality of computers in order to locate a first set of relevant files extracted from said one computer (col. 17, line 5 to col. 18, line 35, Whiting); (iii) processing an additional search within a centralized index on a server (col. 6, line 21-32; col. 10, line 39-65 and col. 14, line 26-42, Whiting) for the purpose of obtaining any additional results corresponding to files stored on the backup database (see col. 8, line 8-20, Whiting), (iv) displaying the result of said additional search (see col. 35, line 44-63, Whiting).

Whiting, however, does not disclose the word data indexes provide access to the files based on the word data content of the files. Midgdey, on the other hand, discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Whiting to include the claimed feature as taught by Midgdey. The motivation of doing so would have been to improve the efficiency of the backup process.

Alternatively the rejection could be applied as following:

Regarding claims 1, 14, 15, 18, 21, 23, 29, 31, 37 and 39, Midgdey discloses a process (corresponding system or software) for indexing files residing on a computer as part of a backup operation, comprising the steps of:

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- executing one or more periodic backup operations on the files (steps 204-206, Fig.6), said backup operation including the step of scanning the files (steps 208, 210 and 212, Fig.6, Midgley discloses the step of finding a file in the backup set reads on “scanning the files”); and
- using said scanning step of the backup operation (step 210-218, Fig.6) to derive a set of word indexes (step 218, the “directory tree” of Fig.6 corresponding to “a set of word indexes”) for subsequent use in obtaining direct access to said files based on the word data content of said files (Fig 4, Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgley).

Which would be a 102 rejection.

(10) Response to Argument

Examiner’s response to Appellant’s argument: the applied prior art does show features in the pending independent claims

A. Midgley clearly discloses periodic backup operations on the files (steps 204-206, Fig.6), said backup operation including the step of scanning the files (steps 208, 210 and 212, Fig.6, Midgley discloses the step of finding a file in the backup set reads on “scanning the files”); and using said scanning step of the backup operation (step 210-218, Fig.6) to derive a set of word indexes (step 218, the “directory tree” of Fig.6 corresponding to “a set of word indexes”) for subsequent use in obtaining direct access to said files based on the word data content of said files (Fig 4, Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgley).

B. Whiting discloses periodic backup operations on the files, said backup operation including the step of scanning the files (see Figs.3-5; col. 3, line 7-48; col.12, lines 38-63and col. 14, line 45-49, Whiting). Midgdey discloses the system and method for storing and retrieving files for archival purposes including a control words which determine how an operating system processes the data words or access information which allows a user access to data file (Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey). Thus, the combination of Whiting and Midgdey discloses the claimed “using said scanning step of the backup operation (step 210-218, Fig.6) to derive a set of word indexes (step 218, the “directory tree” of Fig.6 corresponding to “a set of word indexes”) for subsequent use in obtaining direct access to said files based on the word data content of said files (Fig 4, Fig.6; col. 5, lines 46-67 and col.6, line 66 to col.7, line 40, Midgdey)”.

Therefore, Midgdey, alone or in combination with Whiting discloses the features in the pending independent claims.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

Respectfully submitted,

Hanh Thai

July 21, 2006

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